

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BARTLEY THOMAS	:	CASE NO.
2610 Harrison Avenue #3	:	
Cincinnati, Ohio 45211	:	(Judge _____)
and	:	
GAYLE THOMAS	:	
2610 Harrison Avenue #3	:	
Cincinnati, Ohio 45211	:	
Plaintiffs,	:	<u>COMPLAINT AND JURY DEMAND</u>
v.	:	
JOHN DOE	:	
(Name and address currently	:	
unknown)	:	
and	:	
AUTO-OWNERS INSURANCE	:	
COMPANY	:	
6101 Anacapri Blvd.	:	
Lansing, Michigan 48917-3999	:	
Statutory Agent:	:	
CT Corporation System	:	
4400 Easton Commons Way	:	
Suite 125	:	
Columbus, Ohio 43219	:	
Defendants.	:	

Now come plaintiffs, Bartley Thomas and Gayle Thomas, by and through
counsel, and for their cause of action, state as follows:

1. At all times relevant herein, plaintiffs, Bartley Thomas and Gayle Thomas, are married to each other and reside at 2610 Harrison Avenue #3, Cincinnati, Ohio 45211.

2. At all times relevant herein, defendant, John Doe, is an unknown individual.

3. At all times relevant herein, defendant, Auto-Owners Insurance Company, is a company with a principal place of business located at 6101 Anacapri Blvd, Lansing, Michigan, and is authorized to do business and sell automobile insurance within the State of Ohio.

JURISDICTION AND VENUE

4. This court has subject matter jurisdiction pursuant to, among other things, 28 U.S.C. 1332. The amount in controversy exceeds \$75,000.00 and this is an action by a plaintiff(s) against a defendant who are each citizens of different states. The underlying facts which support this Court's jurisdiction are set forth below in greater detail.

5. Venue is proper in this district pursuant to, among other things, 28 U.S.C. 1391. A substantial portion of the events or omissions occurred within this district. The insurance policy in issue provides coverage to individuals residing within this district.

COUNT ONE

6. On or about December 6, 2021, at approximately 9:42 a.m., plaintiff, Bartley Thomas, was operating a 2007 Dodge in a Southerly direction on Interstate

65, within Maury County, Tennessee, and plaintiff, Gayle Thomas was a passenger in said vehicle.

7. At said time and said place, defendant, "John Doe", an unknown motorist, negligently operated a motor vehicle into the vehicle in which plaintiff, Bartley Thomas and Gayle Thomas were traveling.

8. Defendant, John Doe, then fled from the scene. Upon information and belief, defendant John Doe was not located by responding police officers and his identity is currently unknown.

9. As a direct and proximate result of the negligence of defendant, John Doe, plaintiff, Bartley Thomas, sustained injuries to his head, neck, back, shoulders and other parts of his body, some of which are permanent in nature.

10. As a further direct and proximate result of the negligence of defendant, John Doe, plaintiff, Bartley Thomas, sustained great pain, suffering and emotional distress and will continue to do so in the future as a result of this accident. Additionally, as a result of this accident, plaintiff, Bartley Thomas, has been restricted in his usual activities.

11. As a further direct and proximate result of the negligence of defendant, John Doe, plaintiff, Bartley Thomas, incurred medical and hospital expenses and expects to incur further such expenses in the future.

12. As a further direct and proximate result of the negligence of defendant, John Doe, plaintiff, Bartley Thomas, incurred lost wages and will incur lost wages in the future, his earning capacity having been permanently impaired.

13. As a further direct and proximate result of the negligence of defendant, John Doe, and the injuries resulting to plaintiff, Gayle Thomas, therefrom, plaintiff, Bartley Thomas, individually, suffered the loss of society, services, companionship and affection of his spouse, and will continue to suffer the loss of such society, services, companionship and affection in the future.

COUNT TWO

14. Plaintiffs refer to and incorporate the preceding allegations as if fully rewritten herein.

15. As a direct and proximate result of the negligence of defendant, John Doe, plaintiff, Gayle Thomas, sustained injuries to her head, neck, back, right ankle, legs and other parts of her body, some of which are permanent in nature.

16. As a further direct and proximate result of the negligence of defendant, John Doe, plaintiff, Gayle Thomas, sustained great pain, suffering and emotional distress and will continue to do so in the future as a result of this accident. Additionally, as a result of this accident, plaintiff, Gayle Thomas, has been restricted in her usual activities.

17. As a further direct and proximate result of the negligence of defendant, John Doe, plaintiff, Gayle Thomas, incurred medical and hospital expenses and expects to incur further such expenses in the future.

18. As a further direct and proximate result of the negligence of defendant, John Doe, and the injuries resulting to plaintiff, Bartley Thomas, therefrom, plaintiff, Gayle Thomas, individually, suffered the loss of society,

services, companionship and affection of her spouse, and will continue to suffer the loss of such society, services, companionship and affection in the future.

COUNT THREE

19. Plaintiffs refer to and incorporate the preceding allegations as if fully rewritten herein.

20. Plaintiffs bring this action for uninsured/underinsured motorist coverage pursuant to Ohio Revised Code Sections 2721.01 through 2721.05.

21. Defendant, Auto-Owners Insurance Company, is a company authorized to do business and sell automobile insurance within the State of Ohio.

22. On or about December 6, 2021, plaintiff, Bartley Thomas, was injured and sustained damages as a result of the negligence of defendant, John Doe, as described herein.

23. At the time and date of the aforementioned accident, plaintiff, Bartley Thomas, was insured under defendant, Auto-Owners Insurance Company policy no. 52-918-057-00. A copy of the policy is attached hereto and marked as Exhibit 1.

24. Included in Auto-Owners Insurance Company policy no. 52-918-057-00 was a provision insuring plaintiff, Bartley Thomas, against bodily injuries resulting from accidents with unknown/uninsured/underinsured motorists.

25. Defendant, Auto-Owners Insurance Company, is contractually obligated to compensate plaintiff, Bartley Thomas, for those injuries and damages contained in Count One of this Complaint in an amount at least equal to the limits of said policy.

COUNT FOUR

26. Plaintiffs refer to and incorporate the preceding allegations as if fully rewritten herein.

27. Plaintiffs bring this action for uninsured/underinsured motorist coverage pursuant to Ohio Revised Code Sections 2721.01 through 2721.05.

28. Defendant, Auto-Owners Insurance Company, is a company authorized to do business and sell automobile insurance within the State of Ohio.

29. On or about December 6, 2021, plaintiff, Gayle Thomas, was injured and sustained damages as a result of the negligence of defendant, John Doe, as described herein.

30. At the time and date of the aforementioned accident, plaintiff, Gayle Thomas, was insured under defendant, Auto-Owners Insurance Company policy no. 52-918-057-00. A copy of the policy is attached hereto and marked as Exhibit 1.

31. Included in Auto-Owners Insurance Company policy no. 52-918-057-00 was a provision insuring plaintiff, Gayle Thomas, against bodily injuries resulting from accidents with unknown/uninsured/underinsured motorists.

32. Defendant, Auto-Owners Insurance Company, is contractually obligated to compensate plaintiff, Gayle Thomas, for those injuries and damages contained in this Complaint in an amount at least equal to the limits of said policy.

WHEREFORE, plaintiffs, Bartley and Gayle Thomas, by and through counsel, request that judgment be entered against defendants, John Doe and Auto-Owners Insurance Company, ordering the following:

- a. Declaratory judgment that plaintiffs are entitled to full coverage under Policy no. 52-918-057-00, plus all applicable and appropriate benefits, interest and costs;
- b. Plaintiff be awarded all costs of this action, including attorneys' fees and costs;
- c. Plaintiff recover compensatory damages in excess of Seventy Five Thousand Dollars (\$75,000.00) in an amount to be determined, and,
- d. Recover such other relief as the Court deems just and proper.

/s/ Gary F. Franke

Gary F. Franke (#0029793)

Michael D. O'Neill (#0075195)

William M. Bristol (#0074005)

GARY F. FRANKE CO., L.P.A.

Attorneys for Plaintiff

120 East 4th Street - Suite 1040

Cincinnati, Ohio 45202

Tel: (513) 564-9222

Fax: (513) 564-9990

JURY DEMAND

Plaintiffs hereby request a trial by jury as to all questions of fact.

/s/ Gary F. Franke

Gary F. Franke

Attorney at Law